

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

UNITED STATES OF AMERICA

VS.

CASE NO. 6:13-cr-304-JA-GJK

WILLIAM A WHITE

ORDER

Defendant filed a "Motion for Return of Seized Property Pursuant to Fed. R. Crim. P. 41(g)." (Doc. 221). The Government opposes the motion. (Doc. 226). Because Defendant has unclean hands and because he does not allege an unlawful search and seizure of the property or show he was wrongly deprived of the property, the motion must be denied.

"A person aggrieved by an unlawful search and seizure of property or the deprivation of property may move for the property's return." Fed. R. Crim. P. 41(g). Defendant seeks to have emails seized in this matter from the email account dhyphen@yahoo.com returned to him. The emails were obtained by a warrant and Defendant makes no allegations the warrant was an unlawful search and seizure. Nor can Defendant show that anyone deprived him of his emails. As set forth in the Government's response, the Government "returned" the emails to him through his counsel. (Doc. 226 at 9; Doc. 226-1). Further, Defendant admits that he gave a copy of the emails to his mother.

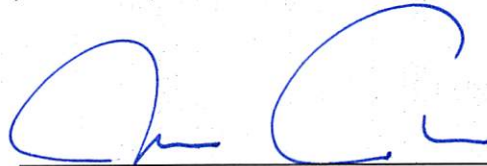
("Unfortunately, the copy of the emails that I gave my mother is corrupt.") (Doc. 221, ¶11). Defendant also admits that his attorney in his criminal case in the Western District of Virginia "presented [him] with a binder consisting of print outs of the emails returned by In Re: dhyphen@yahoo.com MD Fl Case No: 12-mj-1494." (Doc. 221, ¶8). Finally, as the Government asserts, Defendant should be able to obtain copies of the emails from his Yahoo account, unless, of course, he deleted them. (Doc. 226 at 10).

Moreover, a court should treat a motion for return of property filed after the criminal proceedings as a civil action in equity. *United States v. Potes Ramirez*, 260 F.3d 1310, 1314 (11th Cir. 2001). Under equitable principles, to obtain relief, Defendant must have "clean hands." *United States v. Howell*, 425 F.3d 971, 974 (11th Cir. 2005). Defendant used the dhyphen@yahoo.com email account to receive blind copies of threats he sent via other email addresses controlled by him which facilitated his misconduct. Emails sent and received by dhyphen@yahoo.com were direct evidence in his trial showing user attribution and the persistence of his threats. (Doc. 72). Defendant thus has "unclean hands" as to these emails which proscribes the equitable relief he seeks. *Henderson v. United States*, 135 S. Ct. 1780, 1783 n.1 (2015)(unclean hands doctrine "might apply, for example, if a felon requests the return or transfer of property used in furtherance of his offense. See, e.g., *United States v. Kaczynski*,

551 F.3d 1120, 1129-1130(C.A. 9 2009)(holding that the Unabomber had unclean hands to request the return of the bomb-making materials”)).

Defendant’s “Motion for Return of Seized Property Pursuant to Fed. R. Crim. P. 41(g)” is **DENIED**.

DONE and **ORDERED** in Orlando, Florida, on March 31st, 2021.



JOHN ANTOON II
United States District Judge

Copies furnished to:
United States Attorney
United States Probation Office
William A White